

THE HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

GORDON HEMPTON,

Plaintiff,

v.

POND5, INC., A DELAWARE
CORPORATION; AND POND5 USER
CKENNEDY342, A CORPORATION OR
INDIVIDUAL OF TYPE UNKNOWN,

Defendants.

No.: 3:15-cv-05696-RBL

**DECLARATION OF MIKE PACE
IN SUPPORT OF POND5, INC.'S
MOTION FOR SUMMARY
JUDGMENT**

I, Mike Pace, declare and state as follows: I am over the age of 18 and am competent to testify to the matters set forth herein. I am the Audio Development Manager of Pond5, Inc. ("Pond5"). I submit this Declaration in Support of Pond5's Motion for Summary Judgment.

1. On May 26, 2015, I was contacted by an existing customer, Douglas Price of Pro Sound Effects. Attached hereto as Exhibit 1 is a true and correct copy of Douglas Price's May 26, 2015 e-mail to me.

2. Attached hereto as Exhibit 2 is a true and correct copy of my May 26, 2015 e-mail to Nick Power, responding to Exhibit 1.

3. Attached hereto as Exhibit 3 is a true and correct copy of an email from Nick Power to me dated May 29, 2015, responding to Exhibit 2.

4. Attached hereto as Exhibit 4 is a true and correct copy of my e-mail to Nick

DECLARATION OF MIKE PACE IN
SUPPORT OF DEFENDANT POND5 INC.'S
MOTION FOR SUMMARY JUDGMENT - 1
(3:15-cv-05696 RBL)

LAW OFFICES OF
NICOLL BLACK & FEIG PLLC
1325 FOURTH AVENUE
SUITE 1650
SEATTLE, WASHINGTON 98101
(206) 838-7555

1 Power requesting additional information dated May 29, 2015.

2 5. Attached hereto as Exhibit 5 is a true and correct copy of Nick Power's May 29,
3 2015 response to my request for more information on May 29, 2015.

4 6. Attached hereto as Exhibit 6 is a true and correct copy of my May 29, 2015
5 response to Exhibit 5.

6 7. After I sent the email that is attached hereto as Exhibit 6, I did not hear from
7 Gordon Hempton or his legal counsel until June 29, when Pond5 received a letter from Mr.
8 Power. Attached hereto as Exhibit 7 is a true and correct copy of that letter, which is dated June
9 24.

10 8. On June 30, 2015, Pond5 suspended the account of user ckennedy342 and
11 removed all of his Content from Pond5.com. We took these actions out of an abundance of
12 caution, despite the fact that neither Mr. Hempton nor his attorney had provided us with
13 information that was sufficient to identify the clips that Mr. Hempton believed were infringing.
14 Pond5 also commenced an investigation into ckennedy342. On that same day, I sent an email to
15 Nick Power, a true and correct copy of which is attached hereto as Exhibit 8.

16 9. Attached hereto as Exhibit 9 is a true and correct copy of an email that I received
17 from Nick Power on July 2.

18
19 I declare under penalty of perjury under the laws of the United States that the foregoing is
20 true and correct, and that this Declaration was executed on April 21, 2016, at New York, New
21 York.

22
23 

24 Mike Pace

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, I electronically filed the foregoing with the Clerk of the Court using the CM/CF system which will send notification of such filing to the following:

Cynthia J. Heidelberg
BRESKIN JOHNSON & TOWNSEND PLLC
1000 Second Avenue, Suite 3670
Seattle, WA 98104
206-652-8660
Email: cheidelberg@bjtlegal.com

Nicholas E. D. Power
LAW OFFICE OF NICHOLAS POWER
540 Guard St., Ste 140
Friday Harbor, WA 98250
360-298-0464
Email: nickedpower@gmail.com

Roger M. Townsend
BRESKIN JOHNSON & TOWNSEND PLLC
1000 Second Avenue, Suite 3670
Seattle, WA 98104
206-652-8660
Fax: 206-652-8290
Email: rtownsend@bjtlegal.com

DATED this 21st day of April, 2016.

/s/ Larry E. Altenbrun
Larry E. Altenbrun, WSBA #31475

DECLARATION OF MIKE PACE IN
SUPPORT OF DEFENDANT PONDS INC.'S
MOTION FOR SUMMARY JUDGMENT - 3
(3:15-cv-05696 RBL)

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NICOLL BLACK & FEIG PLLC
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SUITE 1650
SEATTLE, WASHINGTON 98101
(206) 838-7555